

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION**

Civil Action No. 1:06-cv-656

JAMES PAUL PUGH, III,

Plaintiff,

v.

LOUISVILLE LADDER, INC. and HOME
DEPOT U.S.A., INC.,

Defendants.

**HOME DEPOT'S MOTION FOR
SUMMARY JUDGMENT**

Defendant, Home Depot U.S. A., Inc., ("Home Depot"), by counsel, submits this motion for summary judgment pursuant to FRCP 56. Summary judgment dismissing plaintiff's claims for negligence and breach of implied warranties against Home Depot must be granted in this case because N.C. Gen. Stat. § 99B-2(a) bars the bringing or maintaining of claim against a seller of an alleged defective product if the seller had no reasonable opportunity to inspect the product for the alleged defect. In this case, Home Depot had no reasonable opportunity to perform such an inspection on the subject ladder prior to selling it to plaintiff. Further, Home Depot made no express warranty to plaintiff for which it can be liable. Thus, summary judgment dismissing the claims against Home Depot must be granted.

A supporting memorandum of law is attached.

Dated: October 2, 2007

By: /s/ Rodney D. Glover

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HOME DEPOT U.S.A., INC.

CERTIFICATE OF SERVICE

I hereby certify that on October 2, 2007, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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